Remarks/Arguments

Applicant hereby traverses the rejections in the office action and requests reconsideration.

I. Amendments

Independent claim 1 has been amended to make it clear that the plate allows pivoting of the pivoting means and thus movement of the distal ends of the support members when in a closed state or in an in-use position. This amendment is supported by the PCT published specification, page 3, paragraphs 6-7, and page 4, paragraph 6.

II. Rejections Under 35 U.S.C. section 103(a)

The examiner has rejected claim 1 under §103(a) as obvious over Schaffel (U.S. 3,830,340) in view of Wiehe, Jr. (U.S. 5,289,897) and Steffe (U.S. 4,564,178). The Examiner has rejected the remaining, dependent claims under §103(a) as obvious over the same combination of references as claim 1, or as obvious over those three references in further view of Telban (U.S. 3,887,036), Hill (U.S. 5,628,382), Lange (U.S. 2,812,219), Rich (U.S. 2,230,015), and/or Alexander (U.S. 4,238,001).

Amended claim 1 is not obvious over Schaffel, Wiehe, Jr., and Steffe, however, because these three references do not disclose all of the limitations of amended claim 1. Because claim 1 as amended is not obvious, the dependent claims are also not obvious.

The Examiner states that Schaffel discloses all of the limitations of claim 1, with the exception of the movement means for transporting the apparatus or a plate for forcing the gripping members together. The Examiner further states that Wiehe, Jr. teaches a plate for applying an external force on the gripping members towards each other and that Steffe teaches movement means provided on the distal ends of the support means.

Schaffel does not disclose the limitations of amended claim 1 – it does not disclose movement means for transporting the apparatus or a plate which, when stepped upon by a user, causes the pivoting means to pivot and hence cause the distal or ends supported by

the movement means to move away from the other distal end or ends with the apparatus in the closed state and increase the grip on the workpiece.

Wiehe, Jr. teaches a sawbuck including Vierendeel truss construction. Although the sawbuck has a rigid pivot beam forming a pivot joint between three sets of X-shaped legs, Wiehe, Jr. only provides teaching that this pivot beam allows the sawbuck to be moved between an open in use position and a closed position for the purposes of storage and transportation. (The closed position in Wiehe, Jr. is not the same as the closed state referred to in Applicants' amended claim 1). The pivot beam in Wiehe, Jr. is not to allow pivoting of the X-shaped legs during use of the sawbuck. This is further supported by the requirement that the sawbuck in Wiehe, Jr. requires tie bars to be provided between opposite X-shaped legs. For example, Wiehe, Jr. states, at col. 4, lines 62-67:

> "Collapsible tie bars 48a and 48b are attached between the first and second legs of leg pairs 30c and 30a, respectively. The tie bars prevent the sawbuck from collapsing during use, and function as a locking means for releasably locking the X-shaped sets of legs (and thus the sawbuck) in an open position."

Wiehe, Jr. further states, at col. 5, lines 2-17 (emphasis added):

> "Additionally, other structures could be used in place of the collapsible tie bars 48a, 48b as long as the structure prevents the legs from overexpanding.....although a removable, non-collapsible tie bar defined by a single metal bar which is removably attachable to each leg (legs 32a and 34a) could also be used, and functions best at preventing the legs from moving away from or towards each other when in the open position."

Thus, the legs in Wiehe, Jr. are not designed to move either towards each other or away from each other when in the open position. A skilled person reading Wiehe, Jr. would understand that no movement between opposite support legs should or would take place with the sawbuck in an open or in-use/gripping position.

Further, Wiehe, Jr. clearly states that beams 40a and 40b are provided as stabilizer beams for forming Vierendeel trusses between the pivot beam, legs and stabilizer beam (col. 2, lines 49-56). The formation of the trusses is purely for the purpose of providing

rigidity to the sawbuck, as set out at col. 2, lines 61-66 and col. 4, lines 58-61. There is no teaching in Wiehe, Jr. for a user applying a force to the stabilizer beams and, even if a user did apply a force to the stabilizer beams, the provision of the tie bars would prevent movement of opposite X-shaped legs towards or away from each other. Thus, Wiehe, Jr. teaches a skilled person away from considering using the stabilizer beams to allow movement of the X-shaped legs when the sawbuck is in the open or clamping position.

Thus, Wiehe, Jr. does not disclose the limitation of amended claim 1 of providing a plate that would allow the pivot means to pivot when in a closed or in-use state. Nor does Wiehe, Jr. teach movement means provided on the distal end or ends of the support means.

Steffe teaches a log holder that has wheels to make the log holder readily portable. Steffe also teaches a pedal 17 for pulling the legs 10, 12 together (i.e., moving the device from a clamping position to an unclamping position). This movement is in a direction opposite to the direction provided by the foot plate of Applicants amended claim 1.

Therefore, the combination of Schaffell, Wiehe, Jr., and Steffe does not result in the invention as claimed in amended claim 1 because none of the references discloses a plate onto a which a user can step to allow movement of the pivotal means to cause the distal end of the support legs or ends supported by the movement means to move away from each other when in a closed or in-use condition.

Moreover, the combination of these references teaches the skilled person away from Applicants' claimed invention because the support legs of the devices in Schaffel and Wiehe, Jr. are both designed to be locked in a set position, in light of the bracing or tie bars provided at the distal ends of the legs, that are locked in position with the devices in-use or in a closed condition. Steffe does teach a pedal to allow the legs of the device to be moved to an open position, but not to further move the distal support legs apart when in the in-use or closed position, and thus provides a skilled person with the opposite teaching to that of the invention as claimed in amended claim 1.

Applicants note that the examiner states, at page 10, that:

> "Vierendeel truss construction works by pivotal beams transferring pressure applied to the points of the truss to squeeze the other elements together in response and in support-so although plates 40a and 40b are called 'stabilizer beams' by Wiehe, it is obvious that these stabilize the beam by transferring applied pressure to the rest of the truss, which in turn tightens the grippers".

Applicants respectfully disagree with the Examiner's definition of Vierendeel truss construction. Applicants believe that Vierendeel truss construction is the provision of a frame with members having fixed joints and arranged with rectangular openings therebetween which can resist and transfer bending moments. The definition of a Vierendeel truss does not include the provision of "pivotal" beams, as suggested by the Examiner. Additionally, the Examiner has assumed that pressure applied to the stabilizer beams will be transferred to the rest of the truss to tighten the grippers in Wiehe, Jr. However, there is no teaching of this in Wiehe, Jr. Nor would it be obvious from the teaching in Wiehe, Jr. as to how pressure applied to the stabilizing beams would be transferred to the rest of the truss and grippers. In fact, the assumption made by the Examiner is contrary to the teaching of Wiehe, Jr. as a whole that uses the tie bars to lock the X-shaped legs in place to prevent overextension or collapse of the legs (i.e., prevents or counteracts any pivotal movement that may take place through application of forces on the apparatus).

Applicants note that the Examiner correctly points out that an obviousness rejection cannot be overcome by attacking the references individually. However, as set forth above, a person skilled in the art would not combine Schaffel and Wiehe, Jr. since both have bracing bars (9, 11 in Schaffel) or tie bars (48a, 48b) adjacent the distal end of the support legs prevent further movement of the supports legs outwardly from each other when the apparatus is in an "in-use" position or with the grippers in a closed state. Amended claim 1 now makes clear that when a user steps on the plate, this causes further outward pivotal movement of the distal ends of the support legs when in the closed state to further increase the gripping force applied to the workpiece. Steffe provides no additional teaching over Schaffel and Wiehe, Jr. in the provision of a plate that allows the

distal ends of the support legs to move further apart when the apparatus is in the closed state. Therefore, amended claim 1 is not obvious over the combination of the three cited references.

III. Conclusion

Applicants respectfully request that the Examiner pass this case to issue

Date: October 18, 2011

Respectfully submitted,

By: 

Audrey A. Millemann (Reg. No.44,942)
Attorney for Applicants
Weintraub Genshlea Chediak law corporation
400 Capitol Mall, 11th floor
Sacramento, Ca 95814
(916) 558-6033